

**MINUTES  
of the  
FOURTH MEETING  
of the  
MORTGAGE FINANCE AUTHORITY ACT  
OVERSIGHT COMMITTEE**

**September 11, 2007  
Mortgage Finance Authority Office  
344 Fourth Street SW  
Albuquerque**

The fourth meeting of the Mortgage Finance Authority Act Oversight Committee was called to order by Senator Nancy Rodriguez, chair, at 10:10 a.m. on September 11, 2007 in the offices of the New Mexico Mortgage Finance Authority (MFA) in Albuquerque.

**Present**

Sen. Nancy Rodriguez, Chair  
Rep. Thomas A. Anderson  
Sen. Mark Boitano  
Rep. Roberto "Bobby" J. Gonzales  
Rep. Teresa A. Zanetti

**Absent**

Rep. Daniel P. Silva, Vice Chair  
Sen. Cisco McSorley  
Sen. Leonard Lee Rawson

**Advisory Members**

Rep. Andrew J. Barreras  
Rep. Jose A. Campos  
Sen. Richard C. Martinez

Rep. Daniel R. Foley  
Sen. Phil A. Griego  
Sen. John T.L. Grubestic  
Sen. H. Diane Snyder

**Staff**

Chase Van Gorder, Staff Attorney

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

**Tuesday, September 11**

**Assessment of Affordable Housing for Tax Purposes**

Domingo Martinez, Santa Fe County assessor, and Victor Baca, Santa Fe County deputy assessor, addressed the committee regarding the issue of valuing homes within affordable housing programs at fair market value. Upon taking office as county assessor, Mr. Domingo was asked to continue the practice of his predecessor in discounting the value of homes that are under an affordable housing program. It was explained that in many instances, a homeowner is able to purchase a home for less than its fair market value, with the sponsoring affordable housing

program contributing some portion of the purchase price, often the difference between the price paid by the homeowner and the fair market value of the home. An encumbrance is then often placed on the property that prohibits the homeowner for a certain period of time from selling the home at its full market value. Mr. Martinez explained that state law seems clear and he has had no choice but to assess homes at the full fair market value as required by state statute. This change in policy at the Office of the County Assessor had the impact of increasing real property taxes owed on 400-500 homes in Santa Fe County that were under an affordable housing program. Mr. Martinez explained the mechanism through which real estate tax rates were established and how the statutory cap on residential property taxes works. He also noted that prior to the 2007 legislative session, his office had requested an opinion from the attorney general on whether the statute dealing with the valuation of residential properties required including a portion of a property's fair market value even though the landowner could not realize the full fair market value upon sale. An opinion has not yet been received and, although Mr. Martinez worked with Speaker Ben Lujan's office regarding potential legislation, no bill was introduced on this issue during the 2007 legislative session. Duncan Sill, affordable housing director with the Santa Fe County Land Use Department, explained how this issue affected homeowners in Santa Fe County and transmitted resolutions from the Board of Commissioners of Santa Fe County and the Santa Fe City Council regarding this issue. The panelists agreed that this was an issue of statewide importance and that if the attorney general opined that homes within affordable housing programs had to be assessed at full fair market value, there would be a need for legislative action.

Questions from committee members addressed the length of time that Santa Fe County homeowners in affordable housing programs had received valuation discounts and requirements for participation in affordable housing programs. Senator Boitano said that a problem, in addition to that posed by subsidized mortgages, was the impact of an increase in valuation when a person moves from a home whose valuation has been limited by the statutory cap into a new home that is then valued at full fair market value.

## **Minutes**

Upon a motion by Representative Campos, seconded by Representative Anderson, the committee approved without objection the minutes from the August 2007 meeting of the Mortgage Finance Authority Act Oversight Committee.

## **New Mexico Mortgage Finance Authority — Status Update**

Jay Czar, MFA executive director, announced that the governor had appointed a task force on mortgage lending that would be staffed by the MFA. The task force has been requested to prepare and present for the governor's consideration by no later than October 31, 2007 recommendations related to subprime lending in New Mexico, the Home Loan Protection Act, home buyer counseling, financial literacy education, licensing requirement for mortgage loan originators and the effectiveness of plain language underwriting and more detailed disclosure requirements.

## **Impact of Revised Constitutional Anti-Donation Clause**

Erin Quinn, MFA senior policy and program advisor, briefed the committee on implementation of the 2006 revision to the anti-donation clause of the Constitution of New Mexico. That revision, approved by the voters in the 2006 general election, authorizes the state and its instrumentalities to provide for paying a portion of the costs of land for the construction of affordable housing and to provide for paying a portion of the costs of construction or renovation of construction or renovation of affordable housing. Senate Bill 534 in the 2007 legislative session (Laws 2007, Chapter 49) revised the Affordable Housing Act to permit implementation of the 2006 constitutional revision. Fourteen local governmental entities have now passed ordinances to enable them to take advantage of the 2006 constitutional revision.

### **Existing and Proposed Rules Promulgated by the MFA**

Lionel Holguin, MFA director of community development, and Marjorie Martin, MFA general counsel, reviewed proposed revisions to the administrative rules implementing the Affordable Housing Act. The proposed rules have been published and there is a period for public comment. The MFA will also be conducting a public hearing on the proposed rules. Copies of the proposed rules have also been sent to the New Mexico Municipal League and the New Mexico Association of Counties. Linda Bridge, MFA director of housing development, reviewed proposed revisions to the administrative rules implementing the Housing Trust Fund Act, which proposed rules have been approved by the advisory committee.

### **Regional Housing Authorities — Region III Update**

Lawrence Rael, executive director of the Mid-Region Council of Governments (MRCOG), and Dewey Cave, MRCOG director of planning and general services, briefed the committee on the current status of the Region III Housing Authority (Region III). Mr. Rael was appointed as interim executive director of Region III effective August 15, 2006. The MRCOG received \$35,000 from the state to provide financial and operational assistance to Region III. The intent was to find a way to fund the operation of Region III and continue the delivery of services. One source of the problems of Region III is the fact that there is no provision for the state to provide operational funding for the regional housing authorities. The MRCOG has worked to identify the liabilities and assets of Region III and to determine revenue and expenditure flows. Reduction in expenditure levels have been accomplished by reducing paid staff, eliminating staff retirement benefits and reducing board per diem and travel. Monthly expenses have been reduced from \$75,000 to \$12,000 with only two paid staff members. It was noted that Region III created a subsidiary nonprofit, Housing Enterprises, Inc. (HEI). Vincent Gallegos was the executive director of both entities. HEI operated statewide and provided operating subsidies in the amount of \$656,000 to Regions I, IV and VII. These subsidies have now been stopped, but there appears to be no mechanisms for the repayment of these subsidies. The MRCOG completed an inventory of all properties owned by Region III and HEI, including 18 homes around the state valued at approximately \$1.3 million and 31 homes that were part of a lease-purchase program, of which three are vacant. The MRCOG also worked to complete construction of four homes on land donated by the City of Gallup to Region I. The MRCOG is working with the State Investment Council (SIC) to identify and liquidate assets owned by Region III and HEI to repay the \$5 million investment by the state. The attorney general has filed lawsuits against two former Region III employees and one former Region III board

member. It was also noted that two private lenders (Capital Investment III and Paul Lambert) had made loans to Region II and have sued for repayment. These loans will be repaid out of the proceeds from the sale of the Region III office building in Albuquerque. The federal Internal Revenue Service has determined that HEI was not eligible for nonprofit status and that some of the allegedly nontaxable bonds issued by Region III were in fact taxable, and that \$27 million in bonds issued for the lease-purchase program had violated arbitrage rules. The MRCOG recently received an emergency loan approved by the State Board of Finance in the amount of \$25,000 to cover operating expenses; that loan now has been converted to a grant. Questions from committee members concerned the disposition of the 18 homes owned by Region III, the status of bonds issued by Region III and the status of efforts to resolve litigation against Region III.

Richard Chavez, the MFA Regional Housing Authorities liaison, updated the committee on the current status of all regional housing authorities in the state. The MFA has forwarded to the Governor's Office recommendations for appointments as executive directors and board members for operating regional housing authorities. Regions I and VII are no longer viable entities, and no names have been submitted for these two regions. Region II no longer has any staff due to the retirement of key staff members and the resignation of the executive director. Operation of the region's Section 8 housing program has been turned over to the Santa Fe Civic Housing Authority on an interim basis. The MFA is working with the MRCOG and the SIC regarding ongoing efforts to liquidate Region III assets. Region III was the only regional housing authority that was not receiving federal funds. Region IV was being operated by the Eastern Plains Housing Development Corporation (EPHDC) and received an unfavorable rating from the U.S. Department of Housing and Urban Development (HUD). The EPHDC has now terminated its relationship with Region IV and an interim executive director and staff will take over with the goal of stabilizing the program. Regions V and VI are both in good standing with HUD, and Mr. Chavez presented an update on their continuing activities. Mr. Chavez also distributed unfavorable HUD evaluations for Regions II and IV.

### **Federal Housing and Urban Development Programs**

Mandy V. Griego, public housing revitalization specialist with the Albuquerque field office of HUD, explained to the committee the Section 8 housing program that exists in all New Mexico counties except McKinley and Cibola counties. She explained the two rating systems used by HUD for evaluating Section 8 housing programs and presented a spreadsheet with the extent of Section 8 housing programs in New Mexico and the rating of each program.

### **Adjournment**

There being no further business before the committee, the fourth meeting of the Mortgage Finance Authority Act Oversight Committee for the 2007 interim was adjourned at 1:35 p.m.